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Committee on Non-Governmental Organizations
2003 resumed session
15-19 December 2003
Consideration of special reports

Special reports

Note by the Secretary-General

1. At its 2003 regular session, the Committee on Non-Governmental Organizations, in accordance with paragraph 61 (c) of Economic and Social Council resolution 1996/31 of 25 July 1996, requested the following organization to submit a special report to the Committee at its resumed session, following a complaint lodged by the representative of the United States of America (see E/2003/32, part II, para. 87):

Indian Movement "Tupaj Amaru"

2. At the same session, the Committee requested the following organization to submit further clarification on its position regarding the complaint made by the representative of Viet Nam (see E/2003/32, part II, para. 67):

Transnational Radical Party (TRP)

3. The Secretary-General has the honour to transmit the special reports of the above-mentioned organizations.

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Special Reports

Contents

		Page
I.	Indian Movement "Tupaj Amaru"	3
II.	Transnational Radical Party	21

I. Indian Movement "Tupaj Amaru"

Background

1. The Indian Movement "Tupaj Amaru" is an international non-governmental organization in special consultative status with the Economic and Social Council since 1997.

2. At is 2003 regular session, the representative of the United States introduced a complaint in the Committee against the Indian Movement "Tupaj Amaru". The United States representative stated that two representatives of the organization rushed, during the fifty-ninth session of the Commission on Human Rights, towards the United States delegation, carrying a large cylindrical object. While facing the camera of a Cuban television crew, these two individual unfurled a banner on which were written the letters "PACE" and chanted anti-United States slogans.

3. A Committee member highlighted that the organization had already sent letters of apology to the United Nations High Commissioner for Human Rights and the head of the Security and Safety Section of the United Nations Office at Geneva, explaining that the incident was the personal decision of the person involved in the incident and that the accreditation of this person to the organization had been withdrawn.

4. Copies of these letters were requested by the secretariat of the Committee from the High Commissioner and the head of the Security and Safety Section of the United Nations Office at Geneva for circulation to the Committee.

5. The NFO was requested to submit a report in response to the questions posed by the United States delegate for review at the 2003 resumed session, which is set out below.

Special report of Tupaj Amaru

Letter dated 15 September 2003 from the Indian Movement "Tupaj Amaru" to the Secretariat

I have the honour to refer to your letter of 22 May, received by facsimile, informing me that in a letter dated 20 May 2003 the United States delegation had submitted to the Committee on Non-Governmental Organizations a complaint against the Indian Movement "Tupaj Amaru", an organization of indigenous peoples in special consultative status with the Economic and Social Council.

In response to your request and pursuant to Council resolution 1996/31, I am submitting herewith our report to the Committee, which contains specific responses to the allegations made by the United States delegation with respect to the incident which occurred at the fifty-ninth session of the Commission on Human Rights (see annex). I am also submitting this report to the NGO Liaison Office at Geneva.

In my capacity as Coordinator-General, I declare in good faith that this report, made up of five chapters and including five enclosures, replies to the five questions submitted by the complaining Government. In addition, it should be noted, as the report makes clear, that Ms. Bonavita acted without authorization and is solely responsible for her actions.

Nevertheless, while acknowledging that the behaviour of the individual in question was irresponsible and incompatible with the rules of procedure, and while apologizing to the United States delegation, the organization cannot accept any attempt to imply that the Bonavita incident was politically motivated nor can any demonstration involving the "PACE" banner be compared to a terrorist act.

I have a mandate to defend the cause of Indians and would like to speak during the proceedings and to appear before the Committee. Accordingly, I request that you send me a letter of invitation as soon as possible for reasons of visa formalities.

In the hope that I have given a satisfactory response to the Committee's questions, I take this opportunity to thank you for your attention.

(*Signed*) Lázaro **Pary**
Coordinator-General

Annex

Report requested by the United States delegation

I. Introduction

1. Established in 1978 during the dark years for democracy, human rights and above all the survival of indigenous peoples, the Indian Movement "Tupaj Amaru" (MITA) asserts its Indian identity and represents the most disadvantaged indigenous communities, supporting their struggle and their resistance, particularly in the Andean countries, currently struggling to cope with the modern world.

2. Its founders, in their commitment to defend fundamental rights and freedoms, took their inspiration from the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the resolutions of the first International NGO Conference on Discrimination against Indigenous Populations in the Americas, held in Geneva in 1977.

3. According to its by-laws, which reflect the spirit and the letter of the Charter of the United Nations, the main goals of this non-profit organization representing indigenous communities are to:

(a) Promote and protect individual and collective rights and fundamental freedoms, particularly economic and cultural rights and civil and political rights, which implies recognition of indigenous peoples' right to self-determination;

(b) Promote the effective enjoyment of the right to land and territory, as well as real recognition of their permanent sovereignty over natural resources, which are considered to be essential for the survival of indigenous populations;

(c) Implement the right to sustainable development in harmony with nature, which is a human right, and ensure the preservation of the cultural and intellectual heritage of indigenous nations, their genetic resources and their traditional knowledge;

(d) Combat colonialism in all its forms, as the source and cause of racism and racial discrimination against indigenous peoples, and also combat all incitement to hatred, violence and terrorism;

(e) Condemn any colonialistic war of aggression aimed at dividing up the world, and preserve international peace and security, which are essential for sustainable, fair and equitable development, democracy and human rights;

(f) Support and promote the implementation of rural and sustainable development projects for indigenous communities with a view to contributing to the eradication of extreme poverty;

(g) Organize round tables, seminars and workshops in various regions with a view to dealing with the question of indigenous rights as a whole, and also ensure the dissemination of information and testimony relating to human rights violations in the context of the International Decade of the World's Indigenous People.

II. Response to the complaint from the Government of the United States of America

4. During its regular session of 2003, the Committee considered a letter dated 20 May 2003 in which the United States Government accused the Indian Movement

"Tupaj Amaru" of having violated the rules of procedure during the fifty-ninth session of the Commission on Human Rights.

5. In accordance with the standard procedure of the Council, the Committee secretariat, in a letter dated 22 May 2003, transmitted to the organization, by facsimile, the complaint of the United States delegation against it, asking it to respond by 30 September 2003 to the accusations made before the Committee.

6. The organization, wrongly accused of violating the rules of procedure, abusing its consultative status with the Council and breaching protocol, through the intermediary of its Coordinator-General, takes this opportunity to make a concrete response to the allegations made by the United States Government regarding the incident which occurred at the fifty-ninth session of the Commission on Human Rights.

Question 1

7. With regard to the procedure followed for accreditation of individuals to the Commission on Human Rights and the subsidiary bodies of the Council, the Indian Movement "Tupaj Amaru" observes and applies the rules and criteria specified in article 4 of its by-laws.

8. As a general rule, accreditation is granted in priority to full and associate members belonging to local groups, most of them from the Andean countries and also the north of the Russian Federation, which owing to their extreme poverty and lack of financial resources are denied the right to participate in United Nations forums. Accreditation may also be granted to lobbyists and activists committed to the cause of indigenous peoples.

9. The by-laws of the organization provide that any full or associate member whether of Indian origin or not (including members in Europe and the Americas) who accepts, respects and applies the purposes and principles specified by the organization may participate in and contribute to the work of the Commission on Human Rights and international conferences organized by the United Nations. It is imperative that participants observe the rules set out in Council resolution 1996/31.

10. With respect to the question posed by the United States delegation, the Coordinator-General wishes to make it clear to the Committee that the organization followed that very procedure in accrediting Ms. Elena Bonavita to the fifty-ninth session of the Commission on Human Rights in her capacity as a researcher on indigenous issues.

As to her qualifications, Ms. Bonavita had participated in United Nations meetings with other members of NGOs. She had already been accredited by the organization to the fifty-fourth session of the Subcommission; no one could have foreseen her intention to abuse her accreditation.

Question 2

11. With regard to the question about length of membership in the NGO, the situation of each member must be considered on a case-by-case basis and in the light of the particular circumstances. Unlike in the case of the rich NGOs in the North, which are financed by governments and public and private institutions and made up to a great extent of civil servants and wage-earners, each member of the

organization, as a matter of principle, is an activist working out of conviction and a commitment to defending human rights. No one is supposed to receive any financial compensation.

12. Each indigenous community or group of communities (Ayllus) represented by their local organization and each person on an individual level, whether of Indian origin or not, is a full-fledged member of the organization on condition that they pay the membership fee, accept the purposes and principles specified in the by-laws and undertake to work for the rights of indigenous peoples, and for peace in the world and against colonialism and racism (article 4, paragraph 2, of the by-laws).

13. The organization's members currently include its original founders, who through their activism, conviction and commitment continue to defend human rights and work for the goals of peace and social justice.

Question 3

14. In accordance with article 5, paragraph 3, of its by-laws, the organization, at the request of the Coordinator-General and following consultation with the Executive Board, ordered the de facto exclusion of Ms. Bonavita, notwithstanding her status in the organization, for having violated the rules of procedure of the Council, disrupted the work of the Commission on Human Rights and shown a lack of respect for the United States delegation. A copy of the organization's by-laws has been enclosed (see annex).

15. After receiving the incident report from the Security and Safety Section at the Palais des Nations, the representative of the organization's Executive Board immediately withdrew Ms. Bonavita's accreditation in order to disassociate the organization from her. Subsequently, other accredited individuals were summoned to a meeting to discuss the incident and remind them of the rules of conduct and that any unilateral action would reflect badly on the organization. The Coordinator-General would like to inform the Committee that in the future accreditation will only be granted to individuals who have been members of the organization for at least one year and who have demonstrated their commitment in good faith.

Question 4

16. The organization declares in good faith that it had no prior knowledge of the incident being planned by Ms. Bonavita and apparently orchestrated by a journalist, also a citizen of Uruguay, who is not known to the organization. The organization's representative went immediately to the Security and Safety Section at the Palais de Nations and signed the incident report (see annex).

17. The individual in question, in her statement to the Security and Safety Section, assumed full responsibility for the consequences of her unilateral and strictly personal action; in other words, she had acted without the authorization or prior consent of the organization and therefore requested that the NGO involved should be excused from any responsibility in that regard.

Question 5

18. With regard to steps taken by the organization to ensure that no person accredited by it would even again be involved in any way in conduct similar to that which occurred at the fifty-ninth session of the Commission on Human Rights, the

organization has decided to strictly apply the provisions of its by-laws and to require from now on that every participant should make a commitment to observe the procedures and rules of conduct specified in Council resolution 1996/31.

19. Given the difficulty of monitoring accredited individuals, which would in any case be incompatible with the spirit of its by-laws, the organization will in the future give priority for accreditation to its members and a small number of human rights advocates, researchers on indigenous peoples and interns who, in view of their experience, their personal contribution and their sense of responsibility, have a worthwhile contribution to make to the work of the Council and its subsidiary bodies.

III. Incident: banner of peace against the war

20. With regard to the incident caused by Ms. Elena Bonavita who, in an irresponsible act waved a banner bearing the word "PACE" in front of the United States delegation during a plenary meeting of the Commission, the Coordinator-General immediately sent two letters dated 18 April and 18 May 2003 to the late High Commissioner for Human Rights, Mr. Sergio Vieira de Mello, to Lieutenant Florian George, Chief of the Security and Safety Section, and to Ms. Al-Hajjaji, President of the Commission on Human Rights at its fifty-ninth session, expressing his deep regret and apologies to the United States delegation (see annexes 3, 4, 5).

21. Regrettably, despite the organization's valid explanations and apologies and the mitigating circumstances, the United States Government has raised the matter before the Committee and made a complaint alleging a violation of the rules of procedure, abuse of consultative status and a breach of protocol on the part of the organization, in a clear attempt to silence indigenous peoples.

IV. Substance of the complaint

22. The substance of the allegations by the United States was certainly not that the banner bearing the word "PACE", peace, which symbolizes the ideals of the Charter of the United Nations was waved at an inappropriate moment, or whether such a display was allowable. A Cuban television crew cannot be suspected of acting in bad faith by being present on the day of the incident, since it was present every day of the Commission's session.

23. The organization rejects any accusation that the Bonavita incident was politically motivated and considers any attempt to link the acts concerned to terrorism to be unacceptable and inflammatory. What is true is that the United States government acts according to its political interests at all times and in all situations. He who cries politics is in fact guilty of politics. In the United Nations forums, the United States delegation no longer supports historical truth or critical testimony and constructive contributions on the part of activist NGOs and human rights advocates.

24. The Committee should ask itself why NGOs have become the new target of the United States. A web site launched in the United States aims to discredit pro-United Nations NGOs, the International Criminal Court and the Kyoto process and denounces their non-democratic practices, lack of transparency, abuse of people of good will and opaqueness (see *Tribune de Genève*, 28-29 June 2003).

25. Basically, in its desire for political order, the super-Power is simply presenting a major challenge to Article 71 of the Charter of the United Nations which provides

for consultation with NGOs, particularly in the developing countries, in their areas of competence.

26. Furthermore, these accusations constitute an obstacle to implementation of the Vienna Programme of Action (1993), which encourages participation by indigenous peoples in the affairs of society, and contravene the Durban Programme of Action against racism (2001), in an attempt to silence the voice of Indians, who are the victims of discrimination and exclusion from the concert of nations and are today condemned to live in extreme poverty.

V. Conclusion

27. The organization is independent and beholden to no one, political parties, Governments, financial institutions or transnational corporations. It has always carried out its activities in full transparency and honesty and acts freely with complete independence, with due regard at all times for the conduct specified in Council resolution 1996/31.

28. It is being targeted because of its active participation in and constructive contributions to the work of the Council and its subsidiary bodies and its commitment to the ideals of peace, justice and human dignity as proclaimed in the Charter of the United Nations.

Enclosure 1

By-laws

Preamble

The founding and full members of the Indian Movement "Tupaj Amaru", hereinafter referred to as the "Movement", meeting in their regular General Assembly,

Considering that the "discovery of the New World" by the European conquistadors led to the violent destruction of indigenous civilizations and the annihilation of their thousand-year-old cultures and their ancestral traditions, followed by the extermination of entire populations, genocide, slavery and outright denial of their right to life and dignity,

Recognizing that colonization of the Americas put an the end to the development of indigenous civilizations and heralded the beginning of their fight for survival, as they were dispossessed of their lands, territories and resources and subjected to a regime of servitude without parallel in colonial history,

Reaffirming the invaluable contribution made by indigenous peoples, through their ancient culture and their form of social organization to the diversity and richness of universal civilization and culture as an integral part of mankind's shared heritage,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and have the right to equal protection against any discrimination and against any incitement to racial discrimination,

Aware that any doctrine based on the distinction between races or on racial superiority is scientifically false, morally abhorrent, socially unjust and a threat to peace,

Aware also that the United Nations has condemned colonialism in all its forms and manifestations, since it impedes peaceful and friendly relations based on respect for rights and the self-determination of all peoples; and has underscored in particular the need to rapidly eliminate neo-colonialism, which is a major obstacle to sustainable development and a factor in the destruction of the environment,

Reaffirming the permanent sovereignty of peoples and nations over their wealth and their natural resources, which is a fundamental aspect of the right of peoples to self-determination under international law,

Recognizing that there can never be justice or peace anywhere so long as Indians, indigenous persons, farmers and miners are separated from Mother Earth and deprived of their natural resources and exist in misery and poverty, work in shameful conditions and suffer discrimination, exclusion and humiliation, a situation which is a source of constant conflict throughout the world,

Having considered democratically and approved in plenary this draft revision, Have agreed to adopt by consensus the following by-laws:

Chapter I

Article 1
Name

The Indian Movement "Tupaj Amaru", hereinafter referred to as "the Movement", a non-profit non-governmental organization (NGO) governed by these By-laws is hereby constituted pursuant to article 60 and the following articles of the Swiss Civil Code for an indefinite period.

Article 2
Headquarters

The headquarters of the Movement has been located in Geneva, Switzerland, since its establishment in 1977.

Chapter II

Article 3
Purposes and principles of the organization

In accordance with its By-laws, the Movement's main aims and purposes are to:

1. Encourage the promotion and protection of the collective and individual rights of indigenous peoples as recognized by the Charter of the United Nations, the Universal Declaration of Human Rights and international instruments;

2. Promote full enjoyment of economic, social and cultural rights based on respect for the dignity of the human person, which is the very foundation for justice and peace in the world;

3. Combat racism and racial discrimination as well as any incitement to racial hatred with regard to indigenous peoples and national minorities;

4. Combat neo-colonialism in all its forms and manifestations, because it leads to segregation, hinders cooperation based relations among peoples and frustrates the inalienable right of peoples to self-determination;

5. Support and encourage sustainable rural development in harmony with nature, as a development alternative to the neo-liberal development model, while preserving ancestral production methods and the collective nature of the work of indigenous peoples;

6. Preserve and transmit to present and future generations the cultural and intellectual heritage of indigenous nations, stressing the diversity of their traditional culture, social and juridical structures, and vision and philosophy, as an integral part of the shared heritage of mankind;

7. Support everywhere the legitimate demands of indigenous communities and peoples for the right to own property and control and enjoy the use of their lands, territories and natural resources, which symbolize their identity as Indians;

8. Contribute to the fight to preserve the earth and the natural environment and prevent air and water pollution with a view to contributing to the eradication of

abject poverty, which is the result of the unequal, unfair and unregulated development of the world economy;

9. Disseminate, and make national and international public opinion aware of, all information, testimony and research relating to violations of the rights and fundamental freedoms recognized in the Universal Declaration of Human Rights.

Chapter III

Article 4
Membership

1. The Movement has both full and associate members.

The founding members are those who participated in the first International NGO Conference on Discrimination against Indigenous Populations in the Americas, held at the Palais des Nations in 1977.

2. In keeping with the principle of democracy, any person, whether of Indian origin or not, as well as any indigenous community (Ayllus) may become a full member individually or as a group, on the sole condition that they observe and apply the principles and purposes specified in these by-laws and pay their annual membership fee.

3. Each member, whether an individual or a group, as defined in paragraph 1 above, may freely exercise the right to vote in any election or consultation and to be a candidate for any position on the Board.

4. Associate members are individuals, whether Indian or not, as well as humanitarian foundations, cultural and scientific institutions or personages who have identified themselves with the cause of the indigenous peoples and made a voluntary contribution to the activities of the Movement, particularly to the work of the Economic and Social Council bodies in the area of the promotion and protection of the rights and fundamental freedoms of indigenous peoples.

5. Members have the right to be made aware of and kept informed on the Council's management and decisions in a transparent and timely manner with regard to all matters affecting the individual and collective interests of indigenous populations.

6. Members are required to respect the provisions of these by-laws, to be bound by them, and to work towards the realization of the Movement's objectives and observance of its main tenets.

Article 5
Exclusion

1. The General Assembly, at the request of the Executive Board, upon recommendation of the Coordinator-General, may, by a two-thirds majority of the voting members present, decide to exclude from the Movement:

1. Any full or associate member who has failed to comply with the provisions in these by-laws or decisions taken by the General Assembly;

2. Any member who uses the Movement and its subsidiary entities for his own personal interests or tries to obtain material advantages or privileges by illicit means.

3. Any member whose opportunistic behaviour and unilateral action, in the judgement of the General Assembly, would do great harm to the aims and purposes of the Movement and would be incompatible with the rules of the Economic and Social Council.

Chapter IV

Article 6
Organizational structure

1. In accordance with the provisions of article 3, the activities of the Movement shall be carried out by the following organs:

The General Assembly

The Executive Board

The Coordinator-General

Article 7
Prerogatives of the General Assembly

1. The General Assembly, hereinafter referred to as the Assembly, is the supreme body of the Movement. It has inalienable authority and its decisions shall be binding.

2. The Assembly is composed of all full and associate members. Each full member, whether an indigenous group or community or an individual, shall have the right to vote. Associate members may participate in ordinary and special sessions of the Assembly as observers.

3. The Assembly shall determine the political orientation and the line of conduct of the organization and decide upon its principal activities, in accordance with the aims set out in these By-laws.

4. The Assembly shall hold an ordinary session every four years following a written convocation issued by the Board. It shall adopt its agenda and decisions by an absolute majority of the members present and voting.

5. In accordance with its competencies, the Assembly shall consider and adopt the report on the activities of the Board for the period in question and the report on financial management submitted by the Board.

6. The Assembly shall have sole competence as regards adopting the report of the Coordinator-General of the organization. It shall decide whether to adopt the recommendations and proposals of the Coordinator-General concerning the programme of action to be developed on the rights and freedoms of indigenous peoples.

7. The Assembly shall determine the future programme of work, adopt the annual budget and set the level of membership dues. It shall have sole competence to elect

the members of the Executive Board and the Coordinator-General, the mandates of which are set out in these By-laws.

8. The Assembly shall also be responsible for taking decisions regarding the revision of the By-laws and adopting any amendments or modifications by a two-thirds majority of the members present and voting.

Article 8
Special sessions of the General Assembly

1. The General Assembly may hold a special session following a decision of the Board or a written request from the Coordinator-General.

2. During a special session, the General Assembly shall consider only issues that appear on the agenda bearing the date and location proposed by the Board or the members of the organization. Its decisions shall be adopted by an absolute majority of the members present and voting.

Article 9
Functions of the Executive Council

1. The Board is the executive organ of the Movement and shall be responsible for ensuring the scrupulous application of the principles enshrined in the By-laws and the implementation of the decisions of the General Assembly.

2. The members of the Board elected by the General Assembly on the basis of geographical distribution shall nominate a chairman, who shall be the Administrator of the organization, a treasurer and a number of advisers.

3. The Board shall also be responsible, inter alia, for the following:

- Ensuring that the Movement carries out its activities, managing its resources and assets in a transparent manner and coordinating human rights policy and activities in consultation with the Coordinator-General;
- Taking any measures that will serve to protect indigenous populations, preparing information about serious violations of human rights and fundamental freedoms and transmitting it, through the intermediary of the Coordinator-General, who is the Permanent Representative of the organization to the United Nations, to the Office of the High Commissioner for Human Rights;
- Assessing testimony and submitting it to the competent United Nations human rights bodies;
- Keeping all members up to date with its activities and decisions concerning the survival of indigenous populations;
- Preparing and submitting to the General Assembly proposals concerning the application on the ground of the right to land and its natural resources and the right to fair and sustainable development provided for in international instruments and agreements.

4. The Board shall meet once a year or more frequently if necessary. It shall be collectively accountable to the General Assembly for its management.

Article 10
Coordinator-General

1. The Coordinator-General shall be elected by the General Assembly for a term of four years and may be re-elected.

2. In accordance with the powers conferred upon him, the Coordinator-General shall apply and coordinate, in collaboration with the Board, the general policy and guidelines set out in these By-laws and ensure that decisions of the General Assembly are implemented.

3. The Coordinator-General is the international executive representative of the Movement to the United Nations and, in that capacity, shall participate in meetings of the organs of the Economic and Social Council and in regional and international conferences on indigenous issues.

4. He is responsible for ensuring, in collaboration with interested parties, the implementation of specific projects to assist indigenous communities with sustainable rural development which respect their ancestral production methods.

5. The Coordinator-General shall prepare and submit to the General Assembly of the Movement a report of his activities and his recommendations concerning the promotion and protection of the rights of indigenous peoples and their effective participation in economic, social and cultural life. He shall be accountable to the General Assembly for the execution and management of his mandate.

Article 11
Resources

1. The financial resources of the Movement shall be obtained from:

(a) Membership dues from individuals and groups;

(b) Voluntary contributions from associate members and organizations that provide sustainable development aid to indigenous communities;

(c) Donations and legacies;

(d) Contributions from human rights organizations;

(e) Income from cultural activities and the sale of publications.

Article 12
Dissolution

1. If the Movement is dissolved, its social capital shall be donated to another indigenous organization with the same principals and goals.

Article 13
Amendment of the By-laws

1. These By-laws may be amended by the ordinary or special session of the General Assembly by a two-thirds majority of the members present and voting.

2. These By-laws, which were amended and adopted by the General Assembly in September 2002, shall enter into force on the day of their adoption.

Authenticated.

Enclosure 2

OFFICE DES NATIONS UNIES A GENEVE	PROCES VERBAL D'AUDITION
SECTION DE LA SECURITE	No ENREGISTREMENT: DL6573.OJ
	DATE ENREGISTREMENT: 18 avril 2002
Télégramme: UNATIONS GENEVE Téléx: 28 96 96 Téléphone : (22) 917 2900 - (22) 907 12 34 Télécopie: (22) 917 00 12 CH-1211 GENEVE 10	VOL ☐ EFFRACTION ☐ DISPARITION ☐ DIFFEREND ☐ PERTE ☐ INCIDENT X DEGRADATION ☐ AUTRE ☐

DECLARANT

NOM	PRENOM	NE(E) LE
PART	*LAZARO*	*17.12.1939*

FONCTION	DEPARTEMENT/SERVICE	BUREAU	TEL
Coordinateur / Administrateur	*ONG « Tupaj Amaru »*		*022.734.76.17*

EN QUALITE DE	PROPRIETAIRE		PLAIGNANT		TEMOIN		AUTRE	X

DECLARE LES FAITS SUIVANTS : Incident en salle XVII

Suite à l'incident en salle XVII, de ce 17 avril 2002, occasionné par Mme. Elena BONAVITA – personne accréditée par l'ONG dont je suis le coordinateur général pour la 59ème Commission des Droits de l'Homme, à laquelle je participe, je déclare lui retirer immédiatement son accréditation et donc ne plus lui permettre l'accès à cette conférence. Je tiens à préciser que cette personne a agit sans mon autorisation, ni mon consentement, et dont l'attitude ne correspond pas aux principes et objectifs de l'ONG que je représente.

CIRCONSTANCES:

Les faits se sont produits	Jour	Mois	Année	Heure
entre le	17	04	2003	16h30
et le	17	04	2003	17h00

Lieu	Bureau		Salle	X	Couloir		Garage		Voiture		Autres	
Mode opératoire	Effraction				Tentative d'effraction				Sans effraction		Autres	X

ELEMENTS D'INFORMATION

Concerne Mme Elena BONAVITA, accréditée par l'ONG « Tupaj Amaru ».

RENSEIGNEMENTS COMPLEMENTAIRES

Je soussigné(e), libre de toute contrainte physique et morale, déclare avoir pris acte de la qualité des personnes qui recueillent mon audition et du sujet de l'enquête en cours. Je confirme que je participe volontairement à cette enquête, qu'il m'a été signifié(e) que je restais libre de répondre ou non aux questions posées ou d'interrompre cet entretien et de signer ou non mes déclarations. Je confirme la réalité des faits énoncés ci-dessus. J'ai reçu copie de la présente déclaration. Lecture faite par moi de la déclaration ci-dessus, j'y persiste et n'ai rien à y changer, à y ajouter ou à y retrancher.

Signature :

DESTINATAIRES		ENREGISTREMENT	INVESTIGATEUR
X M. R. De Stickere	Signature Chef Section	Date: 17.0[illegible]	
X M. F. George			
X Intéressé (Copie)		Par: [illegible]	Signature et cachet

Enclosure 3

Letter dated 18 May 2003 from the Indian Movement "Tupaj Amaru" to the President of the fifty-ninth session of the Commission on Human Rights

In my capacity as representative of indigenous peoples, I have the honour to express my gratitude for your active commitment to victims of human rights violations and to reiterate my appreciation for the widely acknowledged competence, clear thinking and democratic spirit with which you conducted the Commission's deliberations at a time when international peace and security are under serious threat.

I should like to express my sincere apologies for the incident that took place in conference room XVII at around 5 p.m. on 17 April 2003 during the plenary meeting of the Commission.

In accordance with the report from the Security and Safety Section at the Palais des Nations, Ms. Elena Bonavita, a Uruguayan national accredited to the fifty-ninth session of the Commission on Human Rights by the Indian Movement "Tupaj Amaru", accompanied by an unknown journalist, waved a banner bearing the word "PACE" in front of the United States delegation.

First, I would like to point out that Ms. Bonavita is not a member of our organization. Secondly, she committed this senseless act independently and in a strictly personal capacity: she did not consult anybody regarding this matter and therefore acted without my prior authorization or consent. In the statement she made to the Security and Safety Section, Ms. Bonavita promised to accept the consequences of her unilateral actions (see annex 1).

I should like to inform you that, in my letters of 18 April 2003 addressed to Mr. Sergio Vieira de Mello, High Commissioner for Human Rights, and Lieutenant Florian George, Chief of the Security and Safety Section at the Palais des Nations (attached), I offered my apologies for the incident and requested that the organization should be absolved of all responsibility.

Although our campaigning organization has publicly condemned going to war against Iraq without the agreement of the Security Council and although our members were extremely frustrated that the request for the urgent convening of a special session to address the serious violations of human rights and international humanitarian law occurring in Iraq submitted by 9 Member States and 22 NGOs was refused, this does not justify disrupting the work of the Commission.

I should like to reiterate in the strongest terms that the behaviour and attitude of the individual in question are reprehensible and run counter to the conduct of our organization and its principles, as set out in its By-laws. In exercise of my powers and in my capacity as Chief Executive, I immediately withdrew Ms. Bonavita's accreditation as a gesture of no confidence.

During its active participation in the work of the Economic and Social Council and its subsidiary organs and in keeping with its commitment to the human rights of indigenous peoples, the Indian Movement has consistently contributed in a constructive manner to the achievement of the objectives and principles enshrined in the Charter of the United Nations. The organization behaves respectfully and

courteously towards all States, small or large, at all times, in observance of the rules of conduct set out in Council resolution 1996/31, and acts within the framework of its competence under article 71 of the Charter.

I would be more than willing to provide you with any additional information you may require.

Enclosure 4

Letter dated 18 April 2003 from the Indian Movement "Tupaj Amaru" addressed to the United Nations Commissioner for Human Rights

I am writing to offer my sincere apologies for the incident that took place in conference room XVII at around 5 p.m. on 17 April 2003. According to the report from the Security and Safety Section at the Palais des Nations, Ms. Elena Bonavita, a Uruguayan national accredited to the fifty-ninth session of the Commission on Human Rights by the Indian Movement "Tupaj Amaru", accompanied by an unknown journalist, waved a banner bearing the word "PACE" in conference room XVII.

Ms. Bonavita acted independently and in a strictly personal capacity, without my authorization or consent. Although our organization has publicly condemned going to war against Iraq without the agreement of the Security Council, this is not a justification for any protest against the Commission. The behaviour and attitude of the individual in question run counter to the conduct of our organization and its principles. In exercise of my powers as Chief Executive, I immediately withdrew her accreditation as a gesture of no confidence.

During its participation in the activities of the Economic and Social Council and its subsidiary organs, the Indian Movement has wished only to contribute in a constructive manner to their work. The organization behaves respectfully and courteously towards all States, small or large, at all times, in observance of the rules of conduct set out in Council resolution 1996/31.

I should like to thank you for your understanding and take this opportunity to convey to you the expression of my highest consideration.

Enclosure 5

Letter dated 18 April 2003 from the Indian Movement "Tupaj Amaru" addressed to the Security and Safety Section of the United Nations Office at Geneva

Further to the statement I made on 17 April 2003 in your office, I should like to refer once again to the incident that took place in conference room XVII at around 5 p.m. on that day.

I have taken note of the report from the Security and Safety Section at the Palais des Nations, according to which Ms. Elena Bonavita, a Uruguayan national accredited to the fifty-ninth session of the Commission on Human Rights by the Indian Movement "Tupaj Amaru", accompanied by an unknown journalist, waved a banner bearing the word "PACE" during a plenary meeting of the Commission on Human Rights in conference room XVII.

Ms. Bonavita acted independently and in a strictly personal capacity, without my authorization or consent. Although our organization has publicly condemned going to war against Iraq without the agreement of the Security Council, this is not a justification for any protest of this nature. The behaviour and attitude of the individual in question run counter to the conduct of our organization and its principles. In exercise of my powers as Chief Executive, I immediately withdrew her accreditation as a gesture of no confidence.

I would like to make it clear that, during its participation in the meetings of the Economic and Social Council and its subsidiary organs, the Indian Movement has wished only to make a constructive contribution to their work. The organization behaves respectfully and courteously towards all States, small or large, at all times, in observance of the rules of conduct set out in Council resolution 1996/31.

I should like to take this opportunity to thank you for your understanding, in particular your tolerance and your cooperation with non-governmental organizations, and convey to you the expression of my highest consideration.

II. Transnational Radical Party (TRP)

Background

1. The Transnational Radical Party (TRP) is an international non-governmental organization in general consultative status with the Economic and Social Council since 1995.

2. At its 2002 regular session, the Committee discussed a complaint brought by the Government of Viet Nam against TRP. The grounds for the complaint was that the organization had provided accreditation to individuals who were members of the Montagnard Foundation, a movement considered a terrorist organization by Viet Nam, to take part in the fifty-eighth session of the Commission on Human Rights. The Committee requested the organization to submit a special report on the issues brought to the attention of the Committee by the representative of Viet Nam.

3. At its 2002 resumed session, the Committee reviewed the special report submitted by the NGO and found it to be unsatisfactory. The Committee decided that TRP should submit a new supplementary report, including information on the activities carried out by the organization for consideration during the Committee's 2003 regular session.

4. The new supplementary report was reviewed by the Committee at its regular session of 2003. The representative of Viet Nam stated that the organization had continued to accredit Mr. Ksor, who was affiliated with terrorist groups. He further stated that these groups had incited violent riots in Viet Nam and advocated for an independent state of Degar, an act that threatened the territorial integrity of his country.

5. A number of Committee members presented different views to those of the representative of Viet Nam on the accreditation of Mr. Ksor by the organization. The Committee decided to ask TRP to further clarify its position on the accusations made by the representative of Viet Nam and to submit a response for consideration at its 2003 resumed session, which is set out below.

Clarification dated 30 September 2003 provided by the Transnational Radical Party to the Committee on Non-governmental Organizations

Preliminary comments

Before addressing the allegations contained in the complaint lodged by the delegation of Viet Nam, as a preliminary comment the Transnational Radical Party wishes to bring to the attention of the members of the Committee on Non-Governmental Organizations the information contained in its special and supplementary reports (see E/C.2/2003/3) and to raise a procedural point: paragraph 61 (c) of Economic and Social Council resolution 1996/31 requires non-governmental organizations in consultative status with the Council to submit to the Committee through the Secretary-General every fourth year a brief report of their activities. In its previous written responses, TRP has always provided answers on, and taken full responsibility for, the actions carried out by its members under the TRP banner within the United Nations system. The events listed in the Vietnamese Government's complaint do not concern either TRP or its activities as such; however, in the spirit of collaboration with the Committee, TRP has always tried to address in detail the complaint lodged by the delegation of Viet Nam. As a final preliminary point, TRP wishes to reiterate what several delegations stated at the June session of the Committee, that is, that discussions concerning the definition of terrorism and/or the inclusion of a an individual and/or a group in a list of terrorist organizations should be an exercise for competent United Nations bodies.

As a final preliminary observation, TRP wishes to bring to the attention of the members of the Committee a letter dated 22 April 2002, written by the Chair of the fifty-eighth session of the Commission on Human Rights, which unambiguously cleared TRP of any possible wrongdoing, stating that, at the request of the Chair, the secretariat proceeds to a meticulous implementation of the accreditation procedure of all observer participants. In this particular instance, it was brought to the Chair's attention that the representative of the Montagnard Foundation was duly accredited by the Transnational Radical Party, an NGO in consultative status with the Council.

On other occasions, during the June 2003 session, the Committee received letters issued by the Chair of the Commission as relevant pieces of information concerning several NGO-related cases; TRP believes that the letter of the Polish Chair deserves the same type of attention.

As a general remark, TRP wishes to reaffirm that it is a non-violent organization that uses the techniques inspired and implemented by India's founder, Mahatma Gandhi, in its public initiatives and campaigns around the world. All those who freely chose to join TRP and are elected to its organs, such as Mr. Kok Ksor, are aware of this methodology of action and fully endorse it.

TRP also wishes to submit that it has never engaged itself in any politically motivated act, or pattern of actions, against any Member State of the United Nations or against the United Nations founding principles and/or documents. Quite the contrary. In fact, over the last two years, TRP has been participating in relevant discussions within the United Nations system concerning possible ways to strengthen the organization and/or reform it, anticipating, in a way, the recent appeal launched by Secretary-General Kofi Annan on the need to arrive at radical reforms of the United Nations Organization. In this new exercise, TRP has been promoting

knowledge of United Nations principles and activities, consulting with the United Nations — both the Commission and its subcommission — as well as with dozens of Member States, affirming the principles contained in the United Nations Charter, the Universal Declaration of Human Rights and the International Covenants on Human Rights.

On the Vietnamese allegations

The document presented by the Ambassador of Viet Nam at the June 2003 session of the Committee contains three sets of allegations; TRP will address them point by point.

1(a) In the additional special report requested by the Committee at the beginning of 2003, TRP was not asked to acknowledge the fact that its accreditation of Mr. Kok Ksor to the fifty-eighth session of the Commission on Human Rights was an abuse of its consultative status. In fact, TRP was only requested to prepare a report on the ordeal. Moreover, the statement delivered by Mr. Ksor on behalf of TRP was not directed against Viet Nam but rather was a contribution to the debate concerning the issue of indigenous rights.

1(b) TRP has always submitted its responses to the Committee in an extremely respectful manner, and has always provided the information requested in a direct and thorough way. Therefore, TRP fails to understand how it could have tried to make a fool of itself by denying that there is no link between Mr. Ksor and his Montagnard Foundation (MFI) and with the Front unifié pour la libération des races opprimées (FURLO). In its previous response, TRP has clearly stated that Mr. Ksor is not a violent terrorist and that the Montagnard Foundation is a group dedicated to the preservation of the indigenous culture of the Degar people and their traditions. FURLO dissolved many years ago during the Viet Nam War, and therefore its activities cannot have, in any way, any repercussion on what TRP has been doing since its affiliation with the Council in 1995.

2(a) (first and second paragraphs) TRP believes that both quotes taken from the MFI web site cannot be read as a proof of the fact that Mr. Ksor and MFI are formally linked with, or a continuation of the Front unifié pour la liberation des races opprimées. In fact, both are supposedly attributed to an individual, who never states, nor implies, the use of violence or terrorist tactics (MFI's platform can be found at www.montagnard-foundation.org). From a study of MFI's online literature, it is clear that its purpose and activities cannot, in any way, be considered those of a terrorist group engaged in jeopardizing national or international peace and security. In emphasizing that TRP and MFI are two independent entities, TRP wishes to reiterate that MFI is an organization with a peaceful and non-violent mandate that advocates, in accordance with international human rights law, the promotion and respect of fundamental rights of the indigenous Montagnard people within the United Nations. Therefore, TRP submits that MFI cannot be considered a group engaged in the promotion of terrorist activities in any part of the world.

2(a) (third paragraph) TRP is a firm believer in the international rule of law and in the principles of due process of law and fair trial, principles that are enshrined in the most basic and universally recognized instruments for the protection of human rights and fundamental freedoms. According to these standards, in a proceeding both parties should be granted the same treatment and should have equal access to evidence either in favour or against them. Given the fact that neither TRP nor the

Committee could have access to what Viet Nam considers the main evidence of the alleged terrorist activities of Mr. Ksor and MFI (i.e., the original transcript in the original language of a meeting held in 2002 and a phone conversation that occurred in 2001), TRP is of the opinion that those elements could not be examined appropriately and therefore should not be taken into consideration in this case. Nevertheless, in the spirit of its continuous collaboration with the Committee, TRP informed Mr. Kok Ksor of the transcripts. Mr. Ksor firmly denied being the author of the statements quoted in the Vietnamese document; in addition, Mr. Ksor pointed out that the meetings of MFI that were held in North Carolina were carried out in the Ede Montagnard language, while the Vietnamese transcripts are in English. In conclusion, TRP believes that the transcripts cannot and should not be considered evidence of the terrorist intentions of Mr. Kok Ksor and MFI since the Committee has not been allowed to independently verify, according to international standards of due process of law and fair trial, the accuracy and reliability of those statements.

2(b) (first and second paragraphs) same as above.

2(c) TRP fails to understand how one can consider that a community of exiles, who, by definition, do not live in their country of origin, can establish an independent state in a third country without being considered a secessionist group within that country. As far as transcripts are concerned, TRP wishes to reiterate what it stated above in response to question 2(a) (third paragraph).

3(a) TRP submits that Mr. Kok Ksor is not a terrorist and does not advocate the creation of an independent Degar state. In fact, his speeches before the Commission on Human Rights and its subcommission have addressed the issue of the indigenous rights of the people who live in Viet Nam's central highlands. Those statements, which are attached to this document, do not contain any seditious language or proposal. TRP wishes to bring to the attention of the Committee that both the Committee on Racial Discrimination, in 2001, and the Committee on Human Rights, in 2002, fully endorsed the recommendation presented by Mr. Ksor on behalf of TRP.

3(b) For the reasons provided above, TRP submits that the accreditation of Mr. Kok Ksor was not an abuse of its consultative status since it was properly vetted by the Chair and the secretariat of the fifty-eighth session of the Commission and did not violate any of the relevant articles of Council resolution 1996/31. TRP is a firm and active believer in the general principle of criminal law that states that someone is innocent until proven guilty. Therefore, TRP submits that its accreditation of Mr. Ksor to the United Nations in 2002 and 2003 cannot be considered a "deliberate violation" of its consultative status.

3(c) TRP did not commit any wrongful act in giving its platform to Mr. Kok Ksor, who, when accredited, has always spoken solely on behalf of TRP.

Annex

Oral statement made on 15 April 2002 by the Transnational Radical Party to the Commission on Human Rights at its fifty-eighth session

For the last 25 years, the Degar people, known as the Montagnards, in the central highlands of Viet Nam, have been facing systematic human rights violations, such as military operations, sterilizations, land confiscation, torture and religious repression. One of the oldest races of indigenous peoples in Asia is vanishing in front of our eyes. Recent incidents, in February and March 2002, which consisted of violence perpetrated by Vietnamese security forces against Montagnard refugees and the intimidation of the Office of the United Nations High Commissioner for Refugees (UNHCR) officials in Mondolkiri refugee camp in Cambodia, which is run by UNHCR, led to UNHCR's decision to cancel the repatriation agreement and the decision of the United States Government to offer asylum to 1,000 refugees. Viet Nam closed off the central highlands from international scrutiny and moreover Cambodia has publicly declared that it will force fleeing refugees back into the hands of Vietnamese security forces. The Transnational Radical Party welcomes the statement of the European Union urging the two Governments to comply with their international obligations and to resume cooperation with UNHCR. Therefore, the Montagnard people are pleading with the Commission to urge the Vietnamese Government to allow UNHCR to visit the repatriated refugees and to establish an ongoing presence in the central highlands. We ask that the Cambodian border be kept open for refugees fleeing Viet Nam and that pressure be applied to Viet Nam to end the last 25 years of persecution against our indigenous race of people.